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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,823	12/29/2000	Shlomi Harif	AUS9000878US1	8488
35617	7590	08/05/2004	EXAMINER	
CONLEY ROSE, P.C. P.O. BOX 684908 AUSTIN, TX 78768			POLLACK, MELVIN H	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 08/05/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,823

Applicant(s)

HARIF, SHLOMI

Examiner

Melvin H Pollack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: see attached office action.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10, 11, 23, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the definition of the phrase "the heterogeneous network is absent information sent thereacross (sic) for maintaining security thereto." It is unclear what the applicant is attempting to disclose in this limitation, and such a definition is not defined further in the specification. Further, a network does not store information but requires network elements to do so. The examiner interprets this phrase to mean, for this action only, that at least one of the networks is an unsecured network, i.e. the Internet.
4. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "bus" in claims 10, 11, 23, and 24 is used by the claim to mean "software data set", while the accepted meaning is "a hardware connection path." The term is indefinite because the

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specification does not clearly redefine the term. Likewise, the term "bound to a bus" is similarly undefined.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-12, 17, 25, 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Kraft et al. (6,112,225).

7. For claim 1, Kraft teaches a system (see abstract) for identifying and binding a process (col. 1, lines 5-20), said system comprising a network server (Fig. 1, #102) adapted to receive (Fig. 5, #504) a payload (col. 2, lines 14-16) over a network (Fig. 1, #104), wherein the payload comprises a request for process execution associated with a task (col. 1, lines 5-20), and wherein the server is further adapted to evaluate the payload (col. 6, line 60 – col. 7, line 30), create an agent from the payload (Fig. 5, #506), and forward the agent (Fig. 5, #510) to a network host (Fig. 1, #106) for process execution associated with the agent (Fig. 6).

8. For claim 2, Kraft teaches that the network is a heterogeneous network (col. 4, lines 10-20, 40-50).

9. For claim 3, Kraft teaches that the heterogeneous network comprises a network of computational devices (Fig. 1).

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10. For claim 4, Kraft teaches that the heterogeneous network is absent information sent thereacross for maintaining security thereto (col. 10, lines 5-10).

11. For claim 5, Kraft teaches that the network of computational devices comprises a network of multiple platforms (col. 4, lines 29-40).

12. For claim 6, Kraft teaches that the network server comprises a computational device (Fig. 2, #102).

13. For claim 7, Kraft teaches that the network server comprises a processor (col. 4, lines 20-30), a storage device (Fig. 3, #306; col. 3, line 50 – col. 6, line 10), an evaluating program adapted to analyze the payload (Fig. 2, #214), and a binding program adapted to create an agent from the payload (col. 4, line 60 – col. 5, line 2).

14. For claim 8, Kraft teaches that the payload comprises a set of programming instructions, wherein the set of programming instructions are associated with the process execution (col. 6, lines 25-40), and a data set, wherein the data set is associated with the process execution (col. 5, lines 35-45).

15. For claim 9, Kraft teaches that the payload further comprises a set of security permissions, wherein the set of security permissions are associated with the process execution (col. 10, lines 5-35), and a financial data set, wherein the financial data set is associated with the process execution (col. 9, line 60 – col. 10, line 5).

16. For claim 10, Kraft teaches that the agent comprises the payload bound to a bus, wherein the bus is configured to provide the payload the ability to perform the process execution (col. 7, lines 10-30).

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17. For claim 11, Kraft teaches that the bus comprises a set of functional parameters, a set of software libraries, or a set of activating programming instructions (col. 7, lines 10-30).

18. Claim 12 is drawn to a method that effectively describes the activities undertaken by the hardware system as drawn in claim 1. It is well known in the art that the underlying method of a given system is functionally equivalent to said system. Therefore, since claim 1 is rejected, then claim 12 is also rejected for the reasons above. A teaching regarding the method/system equivalence is available upon request.

19. Claim 17 is drawn to the limitations in claim 12. Therefore, since claim 12 is rejected, claim 17 is also rejected for the reasons above.

20. Claims 25 and 26 are drawn to a software system that implements the method drawn in claims 12 and 17, respectively. It is well known in the art that a system implementation is functionally equivalent to the underlying method. Therefore, since claims 12 and 17 are rejected, claims 25 and 26 are also rejected for the reasons above. A teaching that shows the functional equivalence will be included upon request.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 13-16, 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft as applied to claims 1, 12, 17 above, and further in view of Ellis (6,732,141).

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23. For claim 13, Kraft does not expressly disclose evaluating a payload comprises authenticating the payload and checking the payload for conformance to a set of protocols. Ellis teaches this limitation (col. 11, line 53 – col. 12, line 20). At the time the invention was made, one of ordinary skill in the art would have added this limitation to Kraft to ensure that network hosts could perform the task (col. 11, lines 25-50).

24. For claim 14, Kraft does not expressly disclose evaluating the payload comprises compiling a profile of the process execution. Ellis teaches this limitation (col. 10, lines 34-55). At the time the invention was made, one of ordinary skill in the art would have added this limitation to Kraft to ensure that network hosts could perform the task (col. 11, lines 25-50).

25. For claim 15, Kraft does not expressly disclose evaluating the payload comprises simulating the execution of the process. Ellis teaches this limitation (col. 10, lines 9-23). At the time the invention was made, one of ordinary skill in the art would have added this limitation to Kraft in order to provide cost estimates before processing (col. 10, lines 13-15).

26. For claim 16, Kraft does not expressly disclose simulating the execution of the process comprises creating a portion of the process and executing it. Ellis teaches this limitation (col. 19, lines 30-40). At the time the invention was made, one of ordinary skill in the art would have added this limitation to Kraft in order to provide cost estimates before processing (col. 10, lines 13-15).

27. Claims 18-22 are drawn to the limitations in claims 13-16, respectively. Therefore, since claims 13-16 are rejected, claims 18-22 are also rejected for the reasons above.

28. Claims 23 and 24 are drawn to a method that effectively describes the activities undertaken by the hardware system as drawn in claims 10 and 11, respectively. It is well known

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in the art that the underlying method of a given system is functionally equivalent to said system. Therefore, since claims 10 and 11 are rejected, then claims 23 and 24 are also rejected for the reasons above. A teaching regarding the method/system equivalence is available upon request.

Conclusion


29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H Pollack whose telephone number is (703) 305-4641. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHP
28 July 2004


PAUL H. KANG
Primary Examiner